

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NANCY BRESLIN

- against -

UNITED AIRLINES, INC.,

Plaintiff,

Defendant.

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ OCT 11 2011 ★

----- x
BROOKLYN OFFICE

CD 11-11-CV-

4927
NOTICE OF REMOVAL

WEXLER, J.

LINDSAY, M.D.

PLEASE TAKE NOTICE that defendant UNITED AIRLINES, INC. (hereinafter "United"), pursuant to 28 U.S.C. §1441 and based upon this Court's diversity jurisdiction under 28 U.S.C. §1332, removes this action from the Supreme Court of the State of New York, Nassau County, to the United States District Court for the Eastern District of New York. The grounds for such removal are as follows:

1. Plaintiff commenced this action, on or about June 23, 2011, by filing a Summons and Verified Complaint in the Supreme Court of the State of New York, Nassau County. Plaintiff commenced suit on United Airlines Inc. and United Continental Corporation. See Exhibit "A".

2. On July 27, 2011, United Airlines served its Verified Answer to plaintiff's Verified Complaint. See Exhibit "B". At the time venue was proper as defendant United Airlines Inc. was a foreign corporation and United Continental Corporation was a domestic corporation, extinguishing any grounds for diversity jurisdiction.

3. On August 12, 2011, defendants sent correspondence to plaintiff advising that United Continental Corporation was an improper party to the action. Defendants requested that United Continental Corporation be dismissed from this action. See Exhibit "C".

4. As plaintiff's Complaint did not set forth the amount sought in damages, United served upon plaintiff a Demand for Relief pursuant to CPLR § 3017(c) on August 30, 2011. See Exhibit "D".

5. On September 27, 2011 plaintiff responded to United Airline's Demand for Relief claiming plaintiff suffered damages in the amount of \$5,000,000. See Exhibit "E".

6. On October 4, 2011 a stipulation of discontinuance with prejudice dismissing plaintiff's claims against United Continental Corporation was filed with the Court. See Exhibit "F".

7. United Continental Corporation was a domestic corporation licensed to do business in New York State and as such removal was not proper prior to their dismissal.

8. Plaintiff is a citizen of the State of New York and resides in Nassau County, New York.

9. United Airlines is a foreign corporation organized and existing under the laws of the State of Delaware and has its principal place of business in Chicago, Illinois.

10. Pursuant to 28 U.S.C. §1446(b), removal to Federal Court must be made within 30 days after defendants are served with notice that the case is removable based upon the amount in controversy. This removal is timely pursuant to 28 U.S.C. § 1446(b).

11. Jurisdiction exists in this Court by reason of diversity of citizenship, 28 U.S.C. § 1332.

12. Venue in this Court is proper pursuant to 28 U.S.C. §1391 (a) (1) and (c).

WHEREFORE defendant UNITED AIRLINES INC. requests that this Court assume jurisdiction over this action and make such further orders as herein as may be required to properly determine its controversy.

Dated: New York, New York
October 5, 2011

Yours, etc.,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By: 

Gary A. Gardner (GG 8577)
Attorneys for Defendants
UNITED AIRLINES, INC.
150 East 42nd Street
New York, New York 10017
(212) 490-3000

TO: **CELLINO & BARNES, P.C.**
Attn: George R. Gridelli
Attorneys for Plaintiff
600 Old County Road
Suite 500
Garden City, NY 11530
(516) 293-6060 x 512